

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PAINTERS AND FLOORCOVERERS
JOINT COMMITTEE, et al,

Plaintiffs,

v.

BELLO, et al.,

Defendants.

Case No. 2:13-cv-0146-APG-CWH

**ORDER ACCEPTING REPORT AND
RECOMMENDATION**

On July 29, 2013, Magistrate Judge Hoffman entered his Report and Recommendation [Dkt. #35] recommending that Plaintiffs' Motion to Strike Defendant Committed Companies, LLC's Answer to Complaint and for Dispositive Sanctions be granted, that Defendant Committed Companies, LLC's Answer be stricken, and that default judgment be entered against Committed Companies, LLC. No objection has been filed to that Report and Recommendation. Thus, the Court is not obligated to conduct a de novo review of the Report and Recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to "make a de novo determination of those portions of the report or specified proposed findings to which objection is made"); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) ("the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise" (emphasis in original)). Nevertheless, this Court has conducted a de novo review of the issues set forth in the Report and Recommendation.

Magistrate Judge Hoffman's Report and Recommendation sets forth the proper legal analysis, and the factual basis, for striking the Answer and entering default. Committed Companies, LLC was provided ample notice and opportunity to be heard concerning the possibility and nature of sanctions against it. Judge Hoffman properly evaluated the factors set forth in *Connecticut General Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d 1091, 1096 (9th Cir. 2007). Case-dispositive sanctions are appropriate where four factors support them, or where at least three factors "strongly support" them. See *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999) (citing *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)). Because four factors support striking Defendant Committed Companies, LLC's Answer and entering default against it, Judge Hoffman's recommendation for those sanctions is proper.

However, entry of Default Judgment is premature. If Plaintiff wants Default Judgment, it must file a motion seeking that relief, in which it provides the proper calculation of, and evidentiary support for, the amount of the requested judgment. Therefore,

IT IS HEREBY ORDERED that Judge Hoffman's Report and Recommendation [Dkt. #35] is accepted in full, except for the recommendation of entry of default judgment.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Strike Defendant Committed Companies, LLC's Answer to Complaint and for Dispositive Sanctions is granted, and Defendant Committed Companies, LLC's Answer is stricken.

IT IS FURTHER ORDERED that default is entered against Committed Companies, LLC.

IT IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this Order and Judge Hoffman's Report and Recommendation via certified mail to Defendant Committed Companies, LLC's last known address:

Committed Companies, LLC
c/o Rachelle Payne
11 Clarendon Road
Belmont, MA 02478

Dated: October 8, 2013.

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